



Order 98-11-22
Served: November 27, 1998

UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.

Issued by the Department of Transportation
on the 24th day of November, 1998

Essential air service at

WORCESTER, MASSACHUSETTS

under 49 U.S.C. 41731 *et seq.*

**Dockets OST-98-4768 and
EAS 444**

**ORDER AMENDING ESSENTIAL AIR SERVICE AND GRANTING WAIVER TO SUSPEND
SERVICE**

Summary

By this order the Department is granting a waiver from our aviation economic rules (14 CFR 323.3 (a)(5)) to permit Atlantic Coast Airlines (ACA) to terminate its essential air service at Worcester, Massachusetts, on less than 90 days notice, *i.e.*, effective November 30, 1998. We will also update the community's essential air service (EAS) definition to recognize service to any medium or large hub.

Background

By Order 84-5-86 the Department defined essential air service for Worcester as requiring two daily nonstop round trips to New York. There was to be sufficient capacity to enplane at least 40 passengers a day or, based on an assumed 60% load factor, at least 67 seats in and 67 seats out of the community with 15-seat or larger aircraft. On November 13, 1998, Atlantic Coast Airlines filed a 90-day notice to terminate all of its service between Worcester and Washington Dulles and requested a waiver to do so on November 30, well before the end of its 90-day notice period, February 12, 1999. Atlantic Coast is required to file a 90-day notice under the Department's one-third rule, section 323.3 (a)(5), which requires the filing of a 90-day notice when a carrier's proposed suspension at a community would reduce by 33 percent or more the total available seats of all carriers linking that place to FAA-designated hubs.

At the time Atlantic Coast filed its suspension notice, it provided four nonstop round trips a day to Washington Dulles with 29-seat Jetstream 41 aircraft. Worcester is also served by USAirways Express (Liberty) with four nonstop round trips a day to New York (LaGuardia), one a day to Albany, and five a day to Philadelphia, all with 19-seat Beech 1900 aircraft.¹ In addition, USAirways Express provides Worcester with two one-stop round trips a day to Washington Dulles with Beech 1900s.

Decision

We have decided to grant ACA's request for a waiver to suspend service on November 30. We will also amend Worcester's EAS definition. In Worcester's circumstances we are required to permit ACA to discontinue its Worcester service at the end of its 90-day notice period. Because Worcester is within 70 highway miles of a large or medium hub (in fact, two hubs, Boston and Hartford) the Department is

¹ November 1998, Official Airline Guide.

precluded by H.R. 4328, Department of Transportation and Related Agencies Appropriations Act, 1999, from compensating a carrier under the essential air service program for serving the community. Moreover, despite ACA's exit, Worcester will continue to receive far more service, 190 seats a day by USAirways Express, than is required under its EAS definition, 67 seats a day. The community has informally acknowledged that it understands these realities.

We also find that ACA should be permitted to terminate its service to Worcester on less than a full 90 days' notice, *i.e.*, on November 30. Principally, we note that the market's responsiveness to ACA's operations at Worcester is substantially influenced by the community's close proximity to an abundance of low-fare service alternatives. Worcester is only 38 highway miles from Boston (Logan), a large hub, 63 miles from Hartford, a medium hub, 49 miles from Providence, a medium hub, and 62 miles from Manchester, a small hub. At both Providence and Manchester Southwest Airlines now offers low-fare nonstop service to Baltimore-Washington International Airport, Chicago (Midway), Nashville, and Orlando; and both AirTran and USAirways provide low-fare schedules in the Boston-Washington (Dulles) market. In the face of these competitive alternatives, ACA's service has not attained the traffic and revenue goals ACA finds necessary for financial success.

The 90-day notice provision under the one-third rule was put in place to afford communities a reasonable period of time to react to volatile changes in the market, and to ensure smooth carrier transitions. In this case ACA's proposed early suspension will not have the disruptive result of affecting a significant volume of traffic or leaving a significant service void in the market. As noted below, we are requiring ACA to accommodate all passengers who have been booked on them. Under these circumstances, holding ACA to the full 90-day notice period would produce little benefit. Accordingly, we will permit ACA to discontinue its service to Worcester on November 30.

We reiterate, however, that Worcester retains its standing under the notice provisions of the EAS program. Thus, carriers serving the community remain obligated to submit a 90-day notice of intent to suspend if they wish to discontinue their scheduled services at Worcester. In that respect, we have decided to redefine Worcester's EAS definition to require a minimum of two round trips a day to any medium or large hub, with at least 67 seats in each direction. This will keep the 90-day notice requirements in place without designating one hub as being more important than another.

As a final matter, before ACA suspends service, we expect it to make every effort to ensure an orderly transfer of service at Worcester, including notifying all passengers holding reservations on its flights that the service will be suspended, informing them of the availability of replacement service by USAir Express, and assisting them in arranging alternative transportation.

This order is issued under authority delegated in 49 CFR 1.56a(f).

ACCORDINGLY,

1. We amend the essential air service definition for Worcester, Massachusetts, to be two nonstop or one-stop round trips a day to any medium or large hub;
2. We will grant Atlantic Coast Airlines' request for a waiver from section 323.3 (a) (5) to allow it to suspend its service at Worcester, Massachusetts, effective November 30, 1998;
3. This docket will remain open until further order of the Department; and
4. We will serve copies of this order on the Mayor and airport manager of Worcester Massachusetts, the Governor of Massachusetts; the Massachusetts Department of Transportation; USAirways Express, and Atlantic Coast Airlines.

By:

CHARLES A. HUNNICUTT
Assistant Secretary for Aviation
and International Affairs

(SEAL)

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